

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSHUA D. BRODSKY,

Plaintiff,

vs.

WARDEN BACA et al.,

Defendants.

3:14-cv-00641-RCJ-WGC

ORDER

Plaintiff Joshua Brodsky is a prisoner in the custody of the Nevada Department of Corrections. He has sued several defendants in this Court under 42 U.S.C. § 1983. He alleges that between November 22 and 26, 2014, three corrections officers gratuitously assaulted him, that on November 22, and 26, 2014, two corrections officers sexually harassed him (verbally), and that corrections officers have made threats against him. The Court screened the Complaint, permitting the first claim to proceed, dismissing the second claim with prejudice, and dismissing the third claim, with leave to amend. The Court also denied Plaintiff's motions for an injunction against the threats because he did not indicate that any assaults were continuing.

Plaintiff has filed two more motions for a preliminary injunction. He alleges that on December 12, 2014, Officer Samsel told Plaintiff, "The next time I hit you, I [do] so to kill

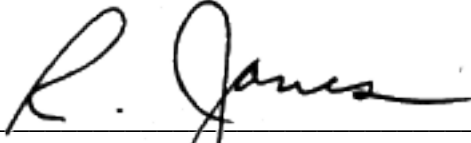
you,”¹ and that on January 16, 2015, Officer Cruise stated about Plaintiff while escorting him to the dentist, “Leave him alone with me and he won’t need a dentist.” Plaintiff makes no allegations, however, that there is any continuing series of assaults or that he is in imminent danger of assault. The officers are already bound by both the civil and criminal law not to assault Plaintiff gratuitously, and a court will not generally enjoin a crime. This is not an unsafe conditions claim, where the state is alleged to have failed to act prospectively to prevent harm to a plaintiff by a third person. This is a direct violation case, where the state is alleged to have caused harm and threatened future harm. The state is already bound not to violate the Eighth Amendment.

CONCLUSION

IT IS HEREBY ORDERED that the Motions for Injunction (ECF Nos. 11, 12) are DENIED.

IT IS SO ORDERED.

Dated this 19th day of February, 2015.



ROBERT C. JONES
United States District Judge

¹ The word “do” is scribbled out, and an unintelligible word is written above it.